

PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION



O R E G O N

REQUEST FOR PROPOSALS
for
**Supplemental GIS Data Assessment
and GIS Database Design**

**Advertised in the Daily Journal of Commerce
May 14 and May 20, 2010**

Address proposals to:

City of Newberg, City Hall

Attention: Jan Wolf, GIS Analyst, Project Manager 503-537-1235

Location: 414 E. First Street, Newberg, OR 97132

Mailing: P.O. Box 970, Newberg, OR 97132

Proposals due: June 1, 2010 at 3:00 p. m. local time.

Envelopes must be sealed, plainly marked: **"Supplemental GIS Data Assessment and GIS Database Design"**, sent to the attention of the Project Manager, and shall include the name and address of the proposer. Respondents must submit **four (4) sets** of the proposal. The City of Newberg reserves the right to reject any or all proposals.

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REQUEST FOR PROPOSALS SUPPLEMENTAL GIS DATA ASSESSMENT AND GIS DATABASE DESIGN

Four (4) written proposals and cost schedules for the City of Newberg **SUPPLEMENTAL GIS DATA ASSESSMENT AND GIS DATABASE DESIGN**, will be accepted by Jan Wolf, GIS Analyst, Newberg City Hall, Public Works Department, 414 East First Street, Newberg, Oregon 97132, until Tuesday, **June 1, 2010 at 3:00 p. m.** local time.

The project consists of the creation of a supplemental Geographic Information System (GIS) Data Assessment Report and the creation of conceptual, logical, and physical data models of the water, wastewater, stormwater, and the cadastral GIS data sets. The Database Design and Models will serve as a template for the methodology and implementation of other data sets into the Enterprise GIS environment that the City is looking to achieve.

The RFP Document, the Planholders List, a copy of the City of Newberg Situational Assessment Report (produced by GeoNorth in 2007), and sample datasets of City of Newberg GIS data are available through Precision Images, 900 SE Sandy Blvd., Portland, OR 97214. Orders can be placed by phone at 503.274.2030 or online at www.pi-express.com.

Some general project information is available on the City of Newberg website at <http://www.newbergoregon.gov/engineering/projects>.

All correspondence pertaining to this RFP should be directed to Jan Wolf, GIS Analyst, Project Manager, City of Newberg, 414 East First Street or P.O. Box 970, Newberg, Oregon 97132, jan.wolf@newbergoregon.gov, Direct: 503-537-1235 FAX: 503-537-1277.

The City desires to have all work completed no later than March 1, 2011.

The City's Selection Committee will recommend to the Newberg Public Works Director that the contract award be made to the proposer that is in the Committee's opinion, best qualified. The Newberg City Council must approve any selection if the contract amount exceeds \$50,000.

Within ten (10) business days after the City Council approval of the selection, the City and proposer will finalize the professional services contract. Appendix A of the RFP contains a copy of the City's standard professional services agreement for proposer's information only. The City will require the successful proposer to sign this contract.

SECTION 1 GENERAL INFORMATION
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1.1 Proposal Request

Written proposals (four sets) are to be submitted by **3:00 p.m. local time on June 1, 2010**, to the City Hall, City of Newberg, Attn: Jan Wolf, GIS Analyst, Project Manager, 414 East First Street, P.O. Box 970, Newberg, Oregon, 97132. For more information please contact Jan at (503) 537-1235.

1.2 Proposer's Proposal

Proposers responding to this proposal request must follow the directions stated within this RFP. Adherence to these rules will ensure a fair and objective analysis of your proposal. Proposals should provide a clear, concise description of your firm's capabilities to satisfy the requirements of the RFP.

All responses must be made in the format outlined in Section 3. Failure to comply with or complete any part of this request may result in rejection of your proposal.

Proposals should be prepared simply and economically, providing a straightforward, concise description of the key personnel's capabilities to satisfy the requirements of the City. Special bindings, colored displays, promotional materials, etc., are not necessary. Emphasis should be on completeness, brevity, and clarity of content.

1.3 Schedule

Proposal Due	June 1, 2010
Interviews (If Required)	June 14, 2010 ¹
Staff Recommendation	June 17, 2010 ¹
City Council Approval	July 19, 2010 ¹
Notice to Proceed	August 1, 2010 ¹
Project Completion	March 1, 2011 ¹

¹ These dates are approximate and subject to change.

1.4 Issuing Office

All correspondence pertaining to this RFP should be directed to Jan Wolf, GIS Analyst, Project Manager, 414 East First Street, P.O. Box 970, Newberg, Oregon, 97132, jan.wolf@newbergoregon.gov, Direct (503) 537-1235, FAX: 503-537-1277.

1.5 Response Date

To be considered, proposals must arrive at the City on or before the date and time specified in this RFP. Proposers mailing proposals should allow delivery time to ensure timely receipt of their proposals. **No proposal or correction received after the closing date and time will be considered.**

1.6 Proposal Withdrawal

Any proposal may be withdrawn at any time before the "Proposal Due" date and time specified in the Schedule, by providing written request for the withdrawal of the proposal to the City. A duly authorized representative of the firm shall execute the request. Withdrawal of a proposal will not prejudice the right of the proposer to file a new proposal.

1.7 Interview

Up to three firms, selected for final evaluation, may be requested to make oral presentations of their proposals to the City's Selection Committee. Such presentations provide an opportunity for the firms to clarify the proposals and to ensure mutual understanding. The presentation will be an informal question and answer meeting; no power-point presentations are expected or desired. The City will schedule the times and location for this meeting.

1.8 Rejection or Acceptance of Proposals

The City expressly reserves the following rights:

- a. To reject any and/or all irregularities in the Proposals.
- b. To reject any and/or all the Proposals or portions thereof.
- c. To base awards with due regard to quality of services, experience, compliance with specifications, and other such factors as may be necessary in the circumstances.

1.9 Selection of Consultant

The City's Selection Committee will recommend to the Newberg Public Works Director that the contract award be made to the proposer that is in the Committee's opinion, best qualified. The Newberg City Council must approve any selection if the contract amount is over \$50,000.

1.10 Execution of Contract

Within 10 business days after the City Council approval of the selection, the City and proposer will finalize the professional services contract. Appendix A of the RFP contains a copy of the City's standard professional services agreement for proposer's information only. The City will require the successful proposer to sign this contract.

If the selected proposer fails to execute a contract with the City within 10 business days after the award has been made, the City may give notice to the proposer of the City's intent to award the service contract to the next best proposal, or to call for new proposals. The 10-day time period may be extended at the City's sole option.

1.11 Public Records

Any material submitted by a proposer shall become the property of the City unless otherwise specified. During the evaluation of proposals and the selection of the consultant, the proposals shall be confidential. After the selection process has been completed, the proposals shall be open to public inspection. Proposals should not contain any information that the consultant does not wish to become public. If it is necessary to submit confidential information in order to comply with the terms and conditions of this RFP, each page containing confidential information should be clearly marked "NOT FOR PUBLIC DISCLOSURE CONFIDENTIAL TRADE SECRETS". The City accepts no liability for the inadvertent or unavoidable release of any confidential information submitted, and claims

arising out of any public record request for such information shall be at the consultant's expense.

1.12 Tax ID Number

Proposals must state the proposer's Federal/State of Oregon Taxpayer Identification Number.

1.13 Recycled Products Statement

In accordance with ORS 279.555(2), Consultants shall use recyclable products to the maximum extent economically feasible in the performance of the contract work set forth in this document.

1.14 Local/State/Federal Requirements

The selected proposer shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this contract, including, without limitation, the provisions of ORS 279.312, 279.314, 279.316, 279.320, and 279.555. In addition, proposers agree to comply with: (1) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the American with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Proposer is subject to the Oregon Worker's Compensation Law and shall comply with ORS 656.017, which requires the provision of Worker's Compensation coverage for all employees working under this contract. The City of Newberg's programs, services, employment opportunities and volunteer positions are open to all persons without regard to race, religion, color, national origin, sex, age, marital status, disability or political affiliation.

1.15 Payment For Services

The City will pay a consultant for services performed based on approved rates and scope of work. Payment will be made within thirty (30) calendar days following submission of acceptable deliverables and receipt of proper invoices.

Payments for extra work not described in the agreed upon scope of services will only be made when authorized in advance and in writing by the City Project Manager.

***** END OF SECTION ONE *****

SECTION 2 SCOPE OF WORK

2.1 General

Introduction

The City of Newberg (City) is seeking Request for Proposals (RFP) regarding creation of a supplemental GIS Data Assessment and a GIS Database Design. The Database Design will include the development of geodatabase models (using a standard conceptual, logical, and physical design process) of water, wastewater, stormwater, and the cadastral GIS datasets. These models will serve as a template for methodology and implementation of other data sets that the City maintains as determined in the supplemental GIS Data Assessment.

The purpose of this RFP is to provide GIS consulting firms with a general outline of the perceived tasks associated with the supplemental GIS Data Assessment and the GIS Database Design. The Consultant is expected to complete the project in accordance with the current GIS practices conforming to acceptable industry standards.

Background

The City employs and periodically invests in technology solutions to help streamline business and improve efficiency and business intelligence. A significant piece of the technology is the utilization of GIS. GIS software has been in use at the City for over 15 years. As part of the investment in technology, the City desires to improve mapping efforts and formalize an Enterprise GIS (EGIS) Program. To this end, an EGIS Steering Committee was formed and the following vision statement was formulated:

Provide a robust and high quality geographic information system that empowers users to efficiently manage and maintain accurate, reliable, and consistent geographic data, and to easily and quickly obtain information in various formats on demand.

The City has invested in Environmental Systems Research Institute (ESRI) GIS software to date. It is anticipated ESRI products will continue to be the foundation of software supporting the City's EGIS. Multiple purchases and developments have been made over the past several years to set the foundation for this EGIS effort. These include:

- City of Newberg GIS Situational Assessment Report in 2007-2008 (produced by GeoNorth).
- Review of the City of Tigard's documentation on their EGIS process.
- Formed an EGIS Steering Committee comprised of staff from various departments in the City.
- Investigated and acquired an Enterprise License Agreement (ELA) with ESRI. Through this ELA we are currently running ArcGIS software at 9.3.1 Version.
- Purchased a server specifically designated for GIS purposes.
- Via the ELA obtained licensing for ArcGIS Server Enterprise (Java Edition) and have begun implementation/experimentation on a PostgreSQL SDE Geodatabase.

- Future plans include utilizing ArcGIS Server technology and integrating GIS with various corporate databases including Cartograph, Permits Plus, and Springbrook.

2.2 Scope of Professional Services

2.2.1 Scope of Work

The following identifies the major anticipated tasks. They are not meant to be prescribed tasks, only a general guide. Consultants may wish to offer alternative approaches to completing the identified tasks.

Task 1: GIS Data Assessment

Objective

Based on previous work done by consultants and a brief reevaluation of the current GIS data inventory of the City a formal determination of data gaps and issues will be documented. This activity will involve evaluating the condition of existing data and determining the appropriate steps to bring it into the planned GIS environment and also look at how the data will be managed once it is within the enterprise GIS environment.

Sub-Tasks

- Conduct data assessment of existing data sets and determine data gaps, needs for additional data. Develop master Data Dictionary.
- Develop overall map base model for classifying and grouping various data layers.
- Develop Data Conversion/Migration Plan and prioritization scheme based on condition of data.
- Develop a Data Management Plan that will provide the necessary tools and/or methodologies that will enable the City to maintain the GIS into the future without outside assistance.

Task 2: Geodatabase Design – Conceptual, Logical, and Physical Data Model

Objective

The conceptual and logical design is the first step in database design where the contents of the intended database are identified and described allowing for a comprehensive mental framework and organized structure to be revealed. The conceptual/logical design captures the user's view of the data and will allow the opportunity to evaluate how all of the various aspects interact (relationships), while at the same time provides the opportunity to identify major issues early on. Specific geodatabase models will be designed for water, wastewater, and stormwater utilities, and cadastral datasets.

Sub-Tasks

- Organize and prepare working groups/individuals for specific model(s).
- Conduct meetings and interviews.
- Develop conceptual/logical data model(s).
- Develop preliminary metadata requirements.
- Review and validate with groups and update as necessary.
- Create Physical Database Model Design based on knowledge gained from looking at the conceptual/logical data models.
- Load schema into ArcCatalog and test.

2.2.2 Project Management Services

- a. Meet with the City, at least telephonically, on an every-other week basis to discuss the status of the project. Consultant to prepare a written summary of each meeting.
- b. Prepare a detailed project schedule. Update the project monthly and submit to the City.
- c. The Consultant must manage and coordinate all components of the project and take a proactive role in keeping all tasks on schedule. Project risks shall be identified as early as possible in the design process and action plans developed to avoid or minimize identified risks. Key project management tasks include, but are not limited to, the following:
 - i. Project leadership.
 - ii. Keep a clear and accurate record of all meetings and follow-up on action items.
 - iii. Schedule management.
 - iv. Manage sub-consultants.
 - v. Ensure quality control.
 - vi. Analyze and track project budget and expenditures.
 - vii. Provide every-other-week status reports and monthly progress reports.

2.2.3 Additional Meetings

The Contractor shall at a minimum meet with the City for the following meetings.

- i. Project Kick-off.
- ii. Meetings required to accomplish Task 1 and Task 2 successfully.
- iii. Final Deliverables Review Meeting.
- iv. One City Council meeting and presentation (if determined to be necessary).

2.3 Project Tasks To Be Performed by City of Newberg

.1 The City will:

- a. Provide a project manager who is responsible for overall project management and will provide coordination between the consultant and the City.
- b. Provide City staff member(s) to provide timely response to any questions and to be available for any meetings requested by the consultant. All meetings will take place at the Newberg City Hall Building.
- c. Form a staff committee that will work closely with the Consultant during the life of the project. This staff committee will be the primary group providing review and comment on Consultant's prepared work products delivered for City approval.
- d. Meet with or talk over the phone with the consultant on an every-other-week basis to discuss the status of the project. Consultant to prepare a written summary of each meeting.
- e. Make available mapping and design information previously developed.
- f. Coordinate collection of data from City records such as GIS data.
- g. Make available guidelines, policies and regulations to be used in developing design.
- h. Prepare Council agenda items (if required).
- i. Conduct Council workshops (if required).
- j. Maintain records and process payment requests.
- k. Legal review of all contracts.
- l. Perform other tasks as negotiated in writing.

2.4 Consultant's Work Products

2.4.1 The Consultant will:

In regards to Task 1: **GIS Data Assessment:**

- Develop a Master Data Dictionary.
- Create an overall map base model for classifying and grouping various data layers.
- Prepare a Data Conversion/Migration Plan.
- Develop Data Management Plan.
- Submit the above to the City.

All of the above will be provided as originals in both hard copy and digitally in both PDF and MSWord. If other digital formats are deemed more suitable, this will be negotiated by the City and the Consultant before submission.

In regards to Task 2: **Geodatabase Design – Conceptual, Logical, and Physical Data Model:**

- Organize and prepare working groups for specific models.
- Conduct meetings/interviews
- Compile notes from such meetings and formulate concise conceptual and logical data models for the water, wastewater, stormwater, and cadastral GIS datasets.
- Create physical Database Data Models for the water, wastewater, stormwater, and cadastral data that are ready for implementation within the City of Newberg ArcGIS Server environment. The physical geodatabase schemas need to be suitable for loading into ArcCatalog and must be able to load in existing datasets. Visio models of schemas must also be prepared for documentation of delivered geodatabases.
- Install and test physical geodatabase schemas inside the ArcGIS environment.

***** END OF SECTION TWO *****

<p style="text-align: center;">SECTION 3 PROPOSAL REQUIREMENTS AND EVALUATION</p>

3.1 Proposal Submittal

To receive consideration, submit proposals in accordance with the following instructions:

Proposals should be prepared simply and economically, providing a straightforward, concise description of proposer's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.

The City, at its sole discretion, has the right to negotiate with any or all proposers regarding their Proposals. Additionally, the City may reject or accept any or all Proposals or parts thereof, submitted in response to this RFP.

The City recognizes that in the submittal of Proposals, certain information is proprietary to the proposer and that the safeguarding of this information is necessary. Accordingly, the City will make every effort to prevent any disclosure of data supplied by any proposer where the proposer identifies those portions of its Proposal that are proprietary.

Written proposals (four sets) are to be submitted by **June 1, 2010**. Proposals must be submitted in a sealed envelope bearing the name, address, phone, and e-mail of the proposer and the name of the project.

Proposals submitted after this time will be returned to the proposer unopened.

If your submittal is **mailed**, it must be addressed to:

Jan Wolf, GIS Analyst, Project Manager
City of Newberg
P.O. Box 970
Newberg, Oregon 97132

Any mail addressed to the street address may be delayed by the Post Office.

Proposers mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals.

If your submittal is **hand delivered**, it must be brought to:

Jan Wolf, GIS Analyst, Project Manager
Newberg City Hall
414 East First Street
Newberg, Oregon 97132

3.2 Incurred Costs

The City is not liable for any costs incurred by proposers in the preparation and/or presentation of their proposals.

3.3 Content of Proposals and Evaluation Criteria

Each of the proposals shall include the information requested in each of the items identified in the following table and in the order indicated.

There are a maximum number of pages and minimum text font size permitted for each item

of information. A proposal exceeding the specified number of pages and text font size less than 11 will be considered non-responsive and the proposal will not be considered. Supporting information shall be in a separate section, at the end of the proposal, and not counted in the page limit requirements. Front and back covers, as well as, section dividers are not counted in the page limit requirements. A one-page table of contents is not counted in the page limit requirements. Each page shall be 8.5" x 11", unless otherwise noted. When using double-sided printing, each side of the page is counted as one page. Each proposal will be judged on the completeness and quality of content, and as a demonstration of the consultant's qualifications.

The items of information to be included in each submittal, evaluation criteria, maximum points, and page limitations are shown on the chart below. An explanation of each item appears immediately following the chart.

CONTENT AND EVALUATION CRITERIA	MAXIMUM NO. OF PAGES	MAXIMUM SCORE
1. Introductory letter	1	0
2. Key personnel qualifications	5	14
3. Project Scope and Understanding	5	16
4. Project schedule (11" x 17" allowed)	3	8
5. Consultant's fee (11" x 17" allowed)	3	12
Totals	17	50

3.3.1 Introductory Letter

The introductory letter shall include, but need not be limited to, the following information. The name of the firm, as well as, the signature, printed name and title, telephone and fax number of the officer authorized to represent the consultant in any correspondence, negotiations and sign any contract that may result. The address of the office that will be providing the service, a project manager's name, telephone number, fax number, and e-mail address. The federal and state tax ID numbers, and the state of incorporation, if applicable, must also be included. Indicate whether the proposer is a "resident bidder" as defined in ORS 279.029 and provide a statement that the proposal is valid for ninety (90) days after the submission deadline.

The proposer may use this section to introduce the Proposal or to summarize the key provisions of the proposal.

3.3.2 Key Personnel Qualifications

Provide a statement that portrays how the qualifications and experience of the Consultant's and sub-consultant's key personnel relate to the described work. The response should address the following:

- a. Key personnel experience with this type of project, and familiarity with the City of Newberg.

- b. A brief resume outlining the experience and qualifications of the person who would be directly responsible for this project. Identify any applicable registrations. Indicate the number of other projects that will be managed by this person during the time he or she would be managing this project.
- c. A listing of other individuals on the team that would support the completion of this project, with a summary of each team member's area of responsibility, expertise, experience and qualifications for this work.

3.3.3 Project Scope and Understanding

- a. Include a statement of understanding of the project.
- b. Provide a detailed work plan that describes how the consultant will organize and conduct the project by task, as defined in Section 2- Scope of Work. This plan must include all major phases of the project, with targeted completion dates for each phase and tasks of the project, as well as for each required deliverable. If the project can be completed in a shorter timeframe than the above mentioned schedule (see **1.3. SCHEDULE**), please indicate the proposed schedule.
- c. Include an explanation of any modifications of the work items and scope of work presented in this request for proposal.
- d. Provide a definition of how the consultant will ensure project progress and quality control.
- e. Provide a description of the consultant's approach and methodology of managing work tasks and coordination, sequencing and control of field operations used to accomplish the work in a timely manner.
- f. Describe how you would propose to use City personnel, if at all, to assist you during the project and indicate the approximate time requirement.
- g. Include a separate and specific description of each point in the RFP that is not completely met by the Proposal. If, in your project description you proposed an alternate approach to the RFP tasks, indicate that in this Proposal section.
- h. If the proposer has covered all items in the RFP, then this section should include the statement "All RFP items have been covered in this Proposal".

3.3.4 Project Schedule

Prepare a project schedule for each significant segment of the work, from Notice to Proceed to Project Completion.

3.3.5 Consultant's Fee Schedule

Indicate proposer's all-inclusive fee for which the requested work will be done, including sub-consultant fees, broken down as follows:

- a. Cost estimate including hours by task as defined in Section 2 – Scope of Work and total hours.
- b. Identify key personnel and commit them to the project for specific numbers of hours.
- c. Identify by Consultant's personnel category and individual staff, using the total hours multiplied by your proposed hourly billing rate.
- d. The fee should include all out-of-pocket costs (travel, printing, etc.) and a fee should be stated for each segment of the project.
- e. Describe the method the Consultant will use in charging for any special requests, reports or broadening of the scope of work beyond that described in this RFP.
- f. Note that all salaries shall remain constant throughout the duration of the project, or indicate any changes on the schedule to provide the total cost. Clearly show cost-of-living adjustments, when used.

3.3.6 Additional Supporting Information

Supporting materials should include only resumes, references and public client list. The reference list shall have no more than five clients with projects similar to this one. Please include the name, address, phone number, fax number and e-mail of the current contact person for each reference. Detail the type of work done that supports the listed mandatory requirements in this RFP. In addition, include a total public client list and contact person for the last two years or the last ten clients, whichever is least. If there is no additional information to present, state "There is no additional information we wish to present".

***** END OF SECTION THREE *****

APPENDIX A:

Standard City of Newberg Professional Services Agreement

CITY OF NEWBERG
**AGREEMENT WITH _____
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG**

THIS AGREEMENT is entered into this ____ day of _____, _____ by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and

(Consultant's name)

(Address)

(Phone)

(Fax)

hereinafter called **Consultant**.

RECITALS:

1. **City** has need for the services of a **Consultant** with particular training, ability, knowledge, expertise and experience possessed by **Consultant**.
2. **City** has chosen the **Consultant** using the _____. (insert words addressing the screening and selection process) to provide services related to the XYZ Project.

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements of the parties, it is agreed as follows.

1. **Effective Date and Duration:** This Agreement shall become effective on the date that this Agreement has been signed by every party hereto.

Unless, terminated or extended, this Agreement shall expire when the **City** accepts **Consultant's** completed performance or on _____, (insert date that work is completed in accordance with Schedule) whichever date occurs first. This fact notwithstanding, the services of **Consultant** shall be authorized and paid on a phase-by-phase basis as described in Exhibit "A".

Expiration shall not extinguish or prejudice **City's** right to enforce this Agreement with respect to any breach of a **Consultant** warranty or any fault or defect in **Consultant's** performance that has not been cured.

2. **Termination:** This Agreement may be terminated at any time by mutual, written consent of the parties. The **City** may, at its sole discretion terminate this Agreement in whole or part upon a 30-day written notice to **Consultant**. The **City** may terminate immediately upon notice to the **Consultant** that the **City** does not have funding, appropriations, or other necessary expenditure authority to pay for **Consultant's** work. The **City** may terminate Agreement at any time for material breach, unless **Consultant** has cured such defect or deficiency within a reasonable period of time following notice of such claim.

3. **Scope of Work:** The **Consultant** agrees to provide the services provided in the Scope of Work which is Exhibit "A" and attached hereto and incorporated by this reference. The **Consultant** represents and warrants to the **City** that the **Consultant** can perform the work outlined in the Scope of Work for the fee proposal amount.

4. **Compensation:** The **Consultant** agrees to perform the work for a not-to-exceed fee as indicated in their professional fee proposal obtained in the Scope of Work. The not-to-exceed figure is as follows:

\$ _____

The **Consultant** shall not exceed the fee for any task included in the fee proposal amount. If the **Consultant** foresees that the fee is going to exceed the not-to-exceed figure because the task has changed or is outside the scope, the **Consultant** shall notify the **City** in writing of the circumstances with an estimated amount that the fee is to be exceeded. The **Consultant** shall obtain written permission from the **City** before exceeding the not-to-exceed fee amount. If the **Consultant** does work that exceeds the maximum fee amount prior to obtaining the written permission, the **Consultant** waives any right to collect that fee amount.

5. **Additional Work Not Shown within the Scope of Work:** If **City** requests or requires work to be done not within the Scope of Work of this project, the **Consultant** shall notify the **City** of such work, provide an estimated fee amount, and obtain written instructions to proceed with work in the form of an Agreement amendment prior to proceeding with work and incurring any costs on behalf of the **City**. If **Consultant** proceeds with work prior to obtaining permission and/or Agreement amendment, the **Consultant** waives any right to collect fees for work performed.

6. **Agreement Documents:** This Agreement consists of the following documents which are listed in descending order of preference: This Agreement, Attached Exhibits, and _____. (insert any other documents that should be referenced) Work is under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

7. **Benefits:** **Consultant** will not be eligible for any federal social security, state workers compensation, unemployment insurance, or public employees' retirement system benefits from the Agreement payment except as a self-employed individual.

8. **Federal Employment Status:** In the event any payment made pursuant to this Agreement is to be charged against federal funds, **Consultant** certifies that he or she is not currently employed by the federal government and the amount charged does not exceed his or her normal charge for the type of services provided.

9. **Consultant's Warranties:** The work to be performed by **Consultant** includes services generally performed by **Consultant** in his/her usual line of business. The work performed by the **Consultant** under this Agreement shall be performed in a good and businesses-like manner in accordance with the highest professional standards. The **Consultant** shall, at all times, during the term of this Agreement, be qualified, be professionally competent, and duly licensed to perform the work.

10. **Indemnity:** **Consultant** shall defend, indemnify and hold harmless **City** from and against all liability or loss and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of the **Consultant**, or its officers, employees, subcontractors, or agents under this Agreement.

11. **Independent Contractor:** **Consultant** is not currently employed by the **City**. The parties to this Agreement intend that the **Consultant** perform all work as an Independent Contractor. No agent, employee, or servant of **Consultant** shall be or shall be deemed to

be the employee, agent or servant of **City**. **City** is interested only in the results obtained under this Agreement; the manner and means of conducting the work are under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

12. **Taxes:** **Consultant** will be responsible for any federal or state taxes applicable to payments received under this Agreement. **City** will report the total of all payments to **Consultant**, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue regulations.

13. **Insurance:**

a) **Consultant**, its Subconsultants, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers; or by signing this Agreement, **Consultant** represents that he or she is a sole proprietor and is exempt from the laws requiring workers' compensation coverage.

b) **Consultant** will, at all times, carry a Commercial General Liability insurance policy for at least \$1,000,000.00 combined single limits per occurrence for Bodily Injury, Property Damage, and Personal Injury. If the policy is written on the new occurrence form then the aggregate limit shall be \$2,000,000.00. The **City**, its agents, employees and officials all while acting within their official capacity as such, shall be named as an additional insured on the insurance specified in this paragraph.

c) **Consultant** will, at all times, carry a Professional Liability/Errors and Omission type policy with limits of at least \$500,000.00. If this policy is a "claims made" type policy, the policy type and company shall be approved by the City Manager prior to commencement of any work under this Agreement.

d) **Consultant** shall furnish the **City** with Certificates of Insurance upon execution of Agreement. Such Certificates of Insurance evidencing any policies required by this Agreement shall be delivered to the **City** prior to the commencement of any work. A 30-day notice of cancellation clause shall be included in said certificate. The **City** has the right to reject any certificate for unacceptable coverage and/or companies.

14. **Assignment:** The parties hereto each bind themselves, their partners, successors, assigns and legal representatives of such other party in respect to all terms of this Agreement. Neither party shall assign the Agreement as a whole without written consent of the other.

15. **Ownership of Work Product:** All original documents prepared by **Consultant** in performance of

this Agreement, including but not limited to original maps, plans, drawings and specifications are the property of **City** unless otherwise agreed in writing. Quality reproducible copies of final work product, including digital files of text and drawings, shall be provided to **City** at the conclusion or termination of this Contract. **City** shall indemnify and hold harmless **Consultant** and **Consultant's** independent professional associates or **Subconsultants** from all claims, damages, losses and expenses including attorney fees arising out of the City's use of any instruments of professional service for purposes outside the scope of this Contract.

16. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties and supersedes all prior agreements, written and oral, courses of dealing, or other understanding between the

parties. No modification of this Agreement shall be binding unless in writing and signed by both parties.

17. **Notification:** All correspondence and notices related to this Agreement shall be directed to the project manager for the party to whom the correspondence or notice is intended. If directed to the **City**: City of Newberg, P.O. Box 970, Newberg, Oregon 97132, Attn: _____. If directed to the **Consultant**: Attn: _____ at the address listed above. Each party shall be responsible for notifying the other of any changes in project manager designation.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

CONSULTANT

By: _____
Name: _____
Title: _____
Date: _____
Division Approval: _____

Recommended for Approval By:

Howard Hamilton
Public Works Director

CITY OF NEWBERG

By: _____
Name: _____
Title: _____
Date: _____

Approved as to form:

Terrence D. Mahr
City Attorney

SAMPLE